



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

my

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,612	12/05/2001	Geoffrey Hamilton White	PAT-1412	6605
7590	12/16/2003			
Raymond Sun 12420 Woodhall Way Tustin, CA 92782				
			EXAMINER THALER, MICHAEL H	
			ART UNIT 3731	PAPER NUMBER 13
DATE MAILED: 12/16/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/010,612

Applicant(s)

WHITE ET AL.

Examiner

Michael Thaler

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-17 and 20-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-12, 14, 17, 20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 15, 16 and 22-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 3731

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Dec. 1, 2003 has been entered.

The disclosure is objected to because of the following informalities: The sentence on page 7, lines 7-10 appears to be inconsistent with the drawings. It is not seen how the angle A1 can decrease upon expansion of the stent since the angle appears to be near zero in the compressed state shown in figure 3, wherein the ends of connecting member 48 are directly across from each other, although the connecting member is curved. It is not seen how the embodiment of figures 16-17 functions since the angle of connecting member 48h relative to the longitudinal axis of the stent increases during stent expansion which would shorten rather than lengthen its longitudinal dimension during stent expansion assuming the length of the connecting member remains constant. The specification nowhere indicates that the length of the

Art Unit: 3731

connecting members changes. Appropriate correction is required.

Claims 1-12, 14, 17, 20 and 21 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was constructively made by original presentation.

Claims 15 and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 15, line 5, "at least one" indicates the possibility of only one connecting member. However, the text in lines 9-10 require two connecting members thus contradicting the text in line 5.

Claims 22-33 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Roubin et al. (6,348,065). Roubin et al. show a plurality of annular elements, each annular element having a plurality of alternating struts 42, 44 and apices 46 wherein each annular element has a longitudinal dimension which is smaller in the expanded state than in the compressed state, and a plurality of connector members 84, 86 (figure 8)

Art Unit: 3731

connecting the apices 46 of adjacent annular elements, each connecting member (each of 84 and 86) having a longitudinal dimension which is larger in the expanded state than in the compressed state since the angle between it and the longitudinal axis of the stent decreases as the stent expands, the connecting member (each of 84 and 86) being straight (col. 6, lines 47-50), wherein the length of the stent remains the same when the annular elements are in both the compressed and expanded states (col. 5, lines 1-4). Alternatively, it would have been obvious that each connecting member (each of 84 and 86) has a longitudinal dimension which is larger in the expanded state than in the compressed state since the angle between it and the longitudinal axis of the stent decreases as the stent expands. As to claim 32, the claimed "plurality of connecting members are considered to be members 84, all of which are oriented at the same angle. As to claim 33, Roubin et al. disclose a plurality of rows of connecting members (wherein one row includes members 84 and another row includes members 86) wherein the connecting members in one row are oriented in a different direction with respect to the connecting members in an adjacent row.

Art Unit: 3731

Claims 15 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.


Applicant's arguments filed Sep. 8, 2003 have been fully considered but they are not persuasive for the reasons set forth above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (703) 308-2981. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Milano can be reached on (703)308-2496. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9306 for regular communications and (703)872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

mht
December 11, 2003


MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731